1878

| | |
|---|---|
| Section | gnal (Cowell) |
| File No | 3 of 1878 |
| Serial No | 1–6 |

Issue of Summons to ~~Heads~~ of ~~Departments~~ Govt. Servants ~~through Heads of Departments~~ of the Assist Medical Dept.

Endorsed.

To be placed in Fil

# O. or M.

123

No. 958

Date 20-2-79

From Indore

On

To filed

19-10-81

General No. 11057
J. 197

Mysore Chief Commr's Office
Bangalore 27th February
1879

To The Asst Secy

Sir

I am directed to forward copy
of letter No 958 d 20 Feby 79 from the
Secy to Govt. Madras Mily Dept.
with its Enclosures relative to
service of criminal processes
on servants of the Amrut Mahal
~~Depots~~ Establishment in Mysore
for issue of orders

2 With regard to warrants there
may be the CC apprehends some
difficulty but may to should he
considers serve Summonses
through the Head of the Depart

3 Govt would like the
Jail Engineer report under
what circ the Amildar of
Kadab in the case mentioned
issued warrants of arrest in
a case of assault

I have &c

24/2

x on 11th a Spare Copy

1/
1842

1879 231.

To

The Judl: Commr
in Guyana

Dated 27th February
recd — " — — " —

Encls: 2

General No: 1105
F " 197

I submits copy of letter
from the Secy to Govt Trinidad, dep:
with enclosures relative to
certain criminal proceedings
against servants of the Amerind
Industrial Settlement in Guyana
in the certain persons &c.

Ack: 12 April 1879
403

Indexed
Vol

E

To Burton
5/3/79

C

No 3981
403

Bangalore 4th March 1879.

From.

J. D. Sandford Esquire
Judicial Commissioner
of Mysore.

To

The Secretary to the
Chief Commissioner
of Mysore.

Sir.

I have the honor to acknowledge the Receipt of your No. 11057/1971 of the 27th Ultimo, forwarding copy of a letter and of its enclosures from the Secretary to Government of Madras, Military Department, Relative to the service of Criminal processes on Servants of the Ameer Mahal Establishment in Mysore.

2. In Reply, I have to observe that there would appear to be some difficulty in complying with the wishes of the Madras Government, that Warrants or Summonses should be served through the Head of the Department. Warrants indeed are not served, but are addressed

to a Police Officer, whose duty it is to arrest and bring the person named in the warrant before the Magistrate. There is no provision in the Law for addressing such warrants to the head of a Department and such a course would for obvious reasons be undesirable

3. Warrants however are only issued ordinarily for serious offences or in the case of disobedience of a summons, and inquiry will be made into the circumstances under which it was considered necessary to issue a warrant in the case mentioned by Major McInroy.

4. Section 158 of the Code of Criminal Procedure provides for the service of summonses on persons in the service of Government through the head of the Office in which the person summoned is employed and although as Mr Lacey points the Law leaves a discretion with the Magistrate whether or not to follow this course, it would appear generally to be the proper course to pursue both in order to ensure the

speedy service of the summons, and also to enable the Head of the Office to provide for the performance of the duties of the person summoned during his absence.

5. But a difficulty has occurred to me on account of which I am unwilling to issue any instructions to the Magistrates on the point. Section 158 provides for the service of summons on persons "in the service of Government." The Code of Criminal Procedure as in force in Mysore the words "in the service of Government" must I think be restricted to the service of the Government of Mysore, and cannot in my opinion be taken to include persons in the service of the Government of one of the Presidencies of British India. And if Section 158 does not apply, then the wishes of the Government of Madras would only be met if the Magistrates issuing summons on persons in the service of the British Government were to direct understood. Section 158 the Head of the Department in which the person summoned is employed

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1872

0.5771.

1875. 76 365

From The Chief Commissioner of Mysore

To

Secretary to Chief Commissioner,
General Department.

Dated 4 August 1876

Despatched 4 " "

Received 7 " "

ENCLOSURES NO.

General No. 3781 } 1875—76.
No. 403

In reply to his No. 11057 of 1876. Wilson writes as to Obstructions, preventing the issue of Criminal processes on the hearing of the Appeal by the Government in Mysore.

To say 4/8/76

I do not think we will consider the Govt Orrs difficulty sufficiently removed in S.S. Dom. until required any effect to India. The Mysore Govt is under the Govt of India now as to Madras & should Govt in 188 will apply to Madras Govt naturally enough

W/— 10/8

say that I think the Terms of S. 188 would apply to Major M who is common with Mysore Govt servants as a servant of Govt of India 10/8 14/8

9/8

I
A42

187

From

255

To The Judicial Commr.

Dated Camp Mysore 11 March 79

Despatched 13th " "

Received

Enclosures No.

General No. 1195 ✓

G No. 508

H.M. letter No. 3981/403 dated

4th March 1879.

In reply states that the

Ch C. thinks the terms of

S 158 would apply to Major

McGreary

~~Haygarth~~ & those underlined

Who, in common with the

Mysore Govt servants are

servants of the Govt of

India.

By order

[signature]

1/3.

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A43.

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O.60.77

187 9. 79. 1889

From — The Jud. Commissioner Lagos.

To Secretary to Chief Commissioner, General Department.

Dated Lagos 19th March 1879.

Despatched 20 " 5 "

Received 21 " 5 "

ENCLOSURES No. 5

General No. 418/4 } 187 9.
No. 428

Referring to his Confidential No 24 of 20th Feby 1879 (Enclosure) forwarding copies of correspondence with the Office Secretary, Ibadan, relative to the [illegible] of Summonses issuing from all courts of Lagos in criminal cases for service at Ibadan, and requesting that the Chief of the Police in which the person is employed.

Draft letter to Govt Secretary Lagos. Sir I am directed to say that in the case of Summonses orders have been issued to all the Magistrates throughout the Colony that the Head of the Department in which the Servant is employed and that in the case of summonses and a Sentence or Order of the Court in criminal cases the Bailiff of the Court should be the person to effect service. I am &c

Draft Chief Secretary

22/3

22-3-79.

178

21/3/79

No 4184/428

Bangalore 19th March 1879.

From

J. B. Sandford Esqr
Judicial Commissioner
of Mysore

To

The Secretary to the
Chief Commissioner
of Mysore

Sir,

With reference to your No 1149/1508 of the 11th instant, I have the honor to forward for the information of the Chief Commissioner copy of my circular No 4183/150, dated 18th idem, to the Commissioners of Divisions, directing them to ~~inform~~ advise all courts or Magistrates, to send all summonses in criminal cases for service on persons in the service of Government, to the Head of the office in which the person is employed, as allowed by Section ~~248~~ 158 Code of Criminal Procedure

J

I have the honor to be
Sir,
Your most Obed.t Servant

Wm Cranch
Judicial Commissioner.

f.b

Circular No. 4183/156

Bangalore 18th March 1879

From

J. D. Sandford Esqr.
Judicial Commissioner
of Mysore

To

The Commissioners
of Divisions.

Sir,

I have the honor to request that you will be so good as to inform all Magistrates in your Division that it is the wish of the Chief Commissioner that Courts or Magistrates issuing summonses in criminal cases on persons in the service of Government, should as allowed
158 by Section 258, Code of Criminal Procedure, send the summons to the Head of the Office in which the person summoned, is employed, so that such Head may, as required by Law, thereupon cause the summons to be served, and may also, provide for the performance of the duties of the person summoned during his

his absence

Shane & Co.

/Signed/ J. D. Sandford

Judicial Commissioner

"Copy"

S. Hancock Mor

Registrar

£6

L.
A-59 10

a letter is necessary to Madras to remove a wrong impression. The Madras Govt may be told what we can & are willing to do in regard to summons, what we cannot do in regard to warrants, and what the facts of the case referred to are.

WG
11/4

1879. 80

From The Judicial Commissioner of Mysore.

119

To

Secretary to Chief Commissioner,
General Department.

Dated 4th April 1879.
Despatched 7th " "
Received 11th " "

ENCLOSURES NO. 1

General No. 65 } 1879—80.
No. 5 }

In continuation of this office No. 4184 / 4128 dated 19th March, forwards copy of a letter from the Commissioner Nundydroog, reporting the circumstances of the arrest of three Surveyors of the Amrut Mahal Department charged with assault.

I think this may be filed. Perhaps the C.C. will inform Madras in continuation of this Office No. 2190 of 24th Ultimo, that summons was issued in the first instance which being refused the Magistrate obliged to issue Warrants

WG
7/4/79

I think the best thing will be to record this. The Surveyors might have been summoned for disobedience or not; the Amt. did not think of taking steps to uphold the dignity of the Court it is too late now - WG 9/4. I think

No 65/5

Bangalore
12th April 1879

From

J. D. Sandford Esqr,
Judicial Commissioner,
of Mysore.

To

The Secretary to the,
Chief Commissioner,
of Mysore.

Sir,

In continuation of my No. 4184/428 of the 17th March, I have the honor to forward, copy of a letter No. 547 dated 31st ultimo, and of its Enclosure, from the Commissioner of the Bangalore Division, reporting the circumstances of the arrest of three Surveyors of the Revenue & Natural Department, charged with assault; and to remark that under Section 156 of the Criminal Code, the issue of the warrant of arrest was within the Competence of the Magistrate.

I have the honor to be
Sir
Your Most Obedt Servant,

D Sandford
Judicial Commissioner.

LB

No. 547

Bangalore Division

Commissioner's Office

Bangalore 31st March 1879.

To

The Judicial Commissioner

of Mysore

Sir,

Adverting to your letter No. 3990/572 of the 4th instant forwarding for report copy of letter from the Amrut Mahal Department in reference to the arrest of 3 Surveyors on a charge of assault, and enquiring why the issue of a warrant was necessary in the case, I have the honor to forward copy of Letter No. 1002 of the 24th instant from the Deputy Commissioner of Tumkur, from which it would be seen that Summonses were in the first instance issued for the appearance of the parties in the case, but as they refused acceptance the Taloor Magistrate issued warrants for their arrest.

2. I consider that as it will be impossible in all cases to wait till Summonses have been delivered through the Head of the Amrut Mahal Department who

who resides at Trincomalee. Some Liberty of discretion might be left to the Magistrate. The Rule of Practice to be observed is that recently enjoined by you, viz. that Process should be served through the Head of a Department but where the delay thereby caused would be so great as to defeat the object of the Process, it might be served and enforced by a Talaiah or other Magistrate, subject to explanation being as in each case given to the District Magistrate.

I have &c.
(Sd) Treasury Clarke
Offg Commissioner

No 1002/2

Trincomalee
Deputy Commissioner's Office
Trincomalee 24th March 1879.

To

The Commissioner,
Batticaloa Division.

Sir

With reference to your docket No 824, dated 11th instant, forwarding for

for report Judicial Commissioner's No. 3990/572 dated 4th inst, I have the honor to state that in the Case referred to there in 4 of the accused were servants of the Imarat Khalsa Department. Summonses were in the first instance issued for their appearance. One of them accepted service of the summons and attended the Court, while the others refused to accept the summonses. The Sub-Magistrate accordingly issued Warrants for their arrest. Having cared to give into custody of them issued to the officer in charge of the Imarat Khalsa Department.

No 65 of 1878 on the file of the Shirastadar and 3rd class Magistrate Kallaba

2. The original enclosures of the docket under reply are herewith returned.

I have &c.
(Sd) J. Lacey
Dy Commissioner

Copy
(Sd) R. H. James. Manager
Hon'ble Commissioner

"Copy"
S. Ramaseshan
Registrar